

Before the
Federal Communications Commission
Washington, D.C. 20554

Comments regarding) MM Docket No. 99-25
The Low Power Radio Service)

To the Commission:

Comments of KZQX-LP

KZQX-LP was one of the first Low Power FM stations to sign on the air in the State of Texas. In nearly three years of actual on air operation, we have come to several conclusions that we feel need to be addressed by the Commission in order to preserve the viability of this important new service. We propose a set of rules for the purpose of protecting LPFM stations and LPFM station applications from displacement or takeover by large organizations. Protective rules are needed to preserve local LPFM service in the face of intense market forces that are pushing for highly consolidated and centralized media operations. The recommends are presented below:

1. All LPFM stations, once on the air should be protected from future displacement by new, upgraded, or relocating full power stations. This would in effect change the nature of LPFM from a Secondary Service to a Primary Service. We have learned through our own experiences that once these stations become established, they can and do become very important parts of their respective communities. Protecting these stations preserves the local program content and service provided by LPFM stations from being displaced by full power stations that move in to acquire more market share or move for other financially motivated reasons. . This is a key issue in areas of the nation where population growth makes areas attractive to full power broadcasters. If this restriction is not present, full power broadcasters will eventually displace most LPFM stations as the nation's population grows.

2. All LPFM stations, once on the air, should be protected

from future displacement by new, upgraded, or relocating translators. This restriction protects LPFM operation from displacement by translators. Otherwise, large broadcasting interests will flood many areas of the country with translators, extending their dominance of broadcasting and blocking local service by LPFM stations.

3. LPFM stations should be allowed to displace new long-distance translators whose construction permits are issued after the current freeze is lifted. For purposes of this discussion, we feel any translator relaying program content which originates more than 100 miles away should be considered a “long distance translator” and thereby subject to displacement by LPFM stations. We acknowledge that this limit may need to be further examined, especially for rural areas in the West and perhaps Alaska. We do not advocate the displacement of existing translators, regardless of the origin of their programming, nor do we advocate the future displacement of translators or repeaters that are awarded construction permits after the current freeze is lifted, providing that they are used to relay the signal of local broadcasters, as defined above. The idea is to use translators or repeaters to promote localism or regionalism in radio, and not to establish huge nation wide translator networks. This proposal supports the high priority of truly local service by LPFM stations, while still protecting reasonable use of translators to supplement local programming.

4. The Commission should allow LPFM stations to own a limited number of translators. Many communities are simply bigger than the coverage area of a typical LPFM station. Of course, the acquisition of such LPFM owned translators should be subject to the customary requirements for public notice and public comment, with case-by-case Commission review if any objections are filed. They should comply with all rules and regulations that apply to any other translator. Like all translators in the commercial band, these should be required to receive their signal off the air at the translator location. This restriction will self govern the number of translators allowable to be licensed by the LPFM station in question.

5. Abuses of translator applications, including efforts to block LPFM stations and/or to establish de-facto networks of translators, should be fully investigated. The current “freeze” on translator applications should remain in effect until the backlog of LPFM applications has been processed.

6. The Commissions original ceiling of a maximum of ten LPFM stations per owner should be allowed to stand. At current licensing rates, it is unlikely that one entity could actually be granted ten stations except in extremely underserved areas. If they can do that, more power to them. Of course, even that would assume the Commission chooses to open additional Filing Windows.

What is probably more important is it would allow mergers of various not for profit groups who already operate LPFM stations. There is strength in numbers. A small regional network of affiliated and co-owned stations could be a very effective local broadcaster, while enjoying some economy of scale in the operation. Due to a variety of factors, many LPFM's are not viable financially. This action would give many of these struggling stations the “life jacket” they need to stay afloat.

7. The present limits on LPFM license transferability need to be altered. We do not feel that it is desirable to make the transfer of these stations a profitable venture, but the transfer from one not-for-profit to another is something that must eventually be addressed. Nothing is forever, nor are the people who are the “spark plugs” who operate these station. People move, get sick or get old, have personal problems, or simply burn out. There needs to be a way to transfer the license from an organization that has simply run out of steam, to a new or different organization that has the interest to make the station viable. That said, we feel that caution should be exercised to assure that the new organization meets all of the same eligibility requirements that were met by the originally licensed organization.

8. The LPFM license eligibility criteria should continue to

include at least a minimum 51% local residency and local ownership requirement. Perhaps an even higher requirement is called for. We feel strongly that the ownership and management of LPFM stations should remain in local hands so that local interests will be represented. On the other hand, the current restriction of 10 miles is simply too limiting, especially in rural or western parts of the U.S. We suggest that a distance of twenty five (25) miles be adopted. In practical terms ten miles is too restrictive when it comes to finding a talent pool to manage the station. In many parts of the country, people are simply more spread out than they are in the Northeast Corridor. In our particular community, people think nothing of driving 10-15 miles to go to the grocery store, bank or Post Office. Why should this be any different?

9. The Commission should evaluate the possibility of establishing 250 Watt LPFM stations for areas where engineering standards would allow it. Eligibility for LP250 status should be based on actual engineering calculations similar to those currently used for translators. This would not be a “do it yourself” type of filing, as LPFM currently is. Instead, it would take good engineering standards into consideration which would generally require the use of outside consulting help. We feel this would be a small price for the applicant to pay in order to maximize the utility of their proposed station. It would also be prudent to consider allowing these LP-250 stations to operate at a HAAT of 200 feet, assuming that interference contours allow such an elevation. This would be similar to translator specifications, which would provide for better coverage and also prevent extremely strong (and possibly interfering) signals on the ground in the immediate vicinity of the tower.

It is our opinion that LP250 stations can serve areas with low population density, such as small towns, villages, farmlands, ranchlands and Native American Reservations, where geographically larger service areas may be needed to assure an LPFM station's economic viability.

10. The Commission should proceed with its long-delayed “filing window” for LP10 stations. While there are rural areas where LPFM

stations may not be financially viable without an LP250 option, there are also urban areas where LPFM stations are not logistically viable without an LP10 option. In places where the radio spectrum is extremely congested, economic viability is less of a challenge than in rural areas, but LPFM stations need the ability to shrink to a wattage level that fits the spectrum openings which are really available. Some communities may never be able to host an LPFM station if LP100 is the only option. Perhaps changing the rules to make LPFM requirements similar to translators would solve some of the problem. Admittedly, it would require more paperwork and engineering studies, but frequently a translator can successfully be wedged into an area where a LPFM can't. If the Commission is serious about encouraging localism in radio, then a 42 watt LPFM should be more desirable than a 42 watt long distance translator.

11. We commend the Commission for urging Congressional action to repeal the unjustified legislative restrictions that have been imposed on LPFM. Although the Commission has clearly taken a stand, it is still advisable for the FCC to remind Congress of the need for timely action, such as enactment of S. 312: the reform bill sponsored by U.S. Senators John McCain (R-AZ), Patrick Leahy (D-VT) and Maria Cantwell (D-WA). In addition, the Commission should call for the introduction of comparable legislation in the U.S. House of Representatives.

Respectfully submitted,

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